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JUN 8 1973

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

No. 72-1199

BOBBY JERALD CULPEPPER,
Petitioner,

versus

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR RE-HEARING FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

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ATTORNEYS FOR PETITIONER

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Appellant presents his Petition for a rehearing in the above entitled cause and in support thereof respectfully shows:

That the Fourth Circuit Court of Appeals, by its refusal to give an opinion in the case of Bobby Jerald Culpepper vs. United States of America denied Bobby Jerald Culpepper the guarantees of the Fifth and Sixth Amendments to the United States Constitution which guarantee a fair and impartial trial to each defendant charged with a crime.

The actions of the Trial Court in the case at bar denied the Petitioner, Bobby Jerald Culpepper, his right to an impartial jury as is guaranteed under the Sixth Amendment to the United States Constitution.

The Trial Court below made prejudicial comments and allowed improper prejudicial testimony to be introduced in the jury's presence.

One such example of prejudicial testimony being received by the jury was that of the Petitioner having left Alaska owing bad debts and being wanted for worthless checks. The Fourth Circuit by its failure to write an opinion in this cause adhered to its prior decision, *Simon vs. U.S.*, 123 Fed.2d 80, (4th Cir. 1941) which is in conflict with the opinions of the Fifth, Sixth, and Tenth Circuits as shown in the cases of *Odom vs. United States,* 377 Fed.2d 853 (5th Cir. 1967), *United States vs. Smith,* 403 Fed.2d 74 (6th Cir. 1968), and *Maestas vs. United States,* 341 Fed.2d 493 (10th Cir. 1965). In order to bring uniformity to the body of laws of the several circuits this Honorable Court should in fact, grant certiorari in the case at bar, in order that the question of the admissibility of prior bad acts in federal criminal prosecutions be once and for all settled.

The Fourth Circuit Court of Appeals in the case at bar failed and wholly refused to follow its own dictates in the case of *United States v. Harris,* 346 Fed.2d 182 (4th Cir. 1965) wherein the same Trial Court was reversed for having committed the same errors that were committed in the case at bar. The Fourth Circuit was bound by the Harris decision under the doctrine of stare decisis and unless the Harris case was improper or mischievous in its results the Fourth Circuit Court of Appeals could not refuse to follow the law as set out in *Harris,* supra.

In order for the same law to apply in all criminal prosecutions thereby granting each individual equal protection and due process under the law there must be adherence to prior decisions and these decisions should be uniform as to the law and the defendants.

CONCLUSION

For the foregoing reasons, it is respectfully urged that this Petition for a re-hearing be granted and that upon further consideration, the Petition For Writ of Certiorari be granted.

ROY O. PARKER
ATTORNEY FOR
PETITIONER

CERTIFICATE OF COUNSEL

I, Roy O. Parker, counsel for the above named Petitioner, do hereby certify that the foregoing Petition For Re-Hearing is presented in good faith and not for delay.

ROY O. PARKER
COUNSEL FOR
APPELLANT

CERTIFICATE

I, Roy O. Parker, Attorney for Petitioner herein, do hereby certify that I have delivered three true copies of the foregoing Petition For Re-Hearing For a Writ of Certiorari to the Supreme Court of the United States, to the Honorable Keith S. Snyder, United States Attorney, Room 310, Post Office Building, Asheville, North Carolina; the Honorable David B. Sentelle, Assistant U.S. Attorney, Room 247, Post Office Building, Charlotte, North Carolina; and to the Solicitor General, Department of Justice, Washington 25, D.C., by mailing a copy of same to each of them at their above respective addresses, air mail, postage pre-paid on the ____ day of June, A.D., 1973.

This the ____ day of June, A.D., 1973.

ROY O. PARKER
ATTORNEY FOR
PETITIONER